IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 19939 of 2004

Between:

1 The Deputy Inspector General of Registration and Stamps, Kurnool Range, Kurnool.
2 The District Registrar, Kurnool.
3 Accountant General of Andhra Pradesh, Hyderabad.

..... PETITIONER(S)

AND

P. Koteswara Rao, Sub Registrar (Retired), Alur, Kurnool District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ or proceedings more particularly one in the nature of Writ of Certiorari calling for the records pertaining to the orders passed in O.A.No. 1354 of 1999 on the file of Hon'ble A.P.A.T. Hyderabad dated 16-9-2003 and quash the same as illegal and arbitrary.

Counsel for the Petitioners: GP FOR SERVICES II

Counsel for the Respondent: --

The Court made the following :

ORAL ORDER (Per Hon'ble Sri Justice G.Bikshapathy)

1 . The writ petition is filed by the Government assailing the order passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No.1354 of 1999, dated 16.9.2003.

2 . The respondent herein filed O.A.No.1354 of 1999 seeking declaration that the action of the respondents in withholding the gratuity due to the applicant for a sum of Rs.55,828/- as per the letter dated 19.6.1997 was illegal and arbitrary.

3. The Tribunal in the O.A. observed as follows:

> *"Thus, it is clear that collection of deficit stamp collection duty on the part of the applicant was not followed up by any disciplinary action. Though in the matter of disciplinary action, any amounts could be withheld under APRP Rules, 1980, but however, no orders were issued against the applicant to that effect. Thus, in view of the circular instructions issued by the Commissioner and Inspector General of Registration Land Stamps, A.P., dated 13.9.1995, and also with reference to the rule position obtaining under Rule-9 of A.P.R.P. Rules, 1990, there does not appear to be any justification for withholding the gratuity. Also no counter*

was filed by the Government.

The respondents are therefore directed to release the amount due to the applicant i.e. Rs.55,828/- with an interest of Rs.9% per annum from the date of retirement within a period of one month from the date of receipt of a copy of this order.

With the above directions, the O.A. is disposed of."

4. The Tribunal, after considering the matter observed that no enquiry was conducted in the matter and therefore, there was no justification in withholding the amount.

5. Against the said order, the Government has filed the present writ petition.

6. The learned Government Pleader for the petitioners submits that in fact, initially, it was decided to withhold a sum of Rs.55,828/- but on verification, it was found that the applicant is liable to pay Rs.34,423/- and therefore, he further submits that when the departmental duties are to be recorded, it is open for the employer to recover from the D.C.R.G..

7. This contention cannot be accepted inasmuch as no enquiry was conducted. Without conducting any enquiry, no order can be passed withholding D.C.R.G. That is why the Tribunal observed in the above extracted paragraph. Thus, we do not find any illegality in the order passed by the Tribunal.

8. The writ petition is accordingly dismissed. No costs.

(G. BIKSHAPATHY, J.)

13th December, 2004.

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(P.S. NARAYANA, J.)

bcj

To

1 The Deputy Inspector General of Registration and Stamps, Kurnool Range, Kurnool.
2 The District Registrar, Kurnool.
3 Accountant General of Andhra Pradesh, Hyderabad.

4 Two C.Cs. to the Government Pleader for Services-II, High Court Buildings, Hyderabad (OUT)

5 The Registrar, A.P. Administrative Tribunal, Hyderabad.

6. Two C.D. Copies